

REMARKS

Reconsideration and withdrawal of the final rejection is respectfully requested in view of the foregoing amendments and the following remarks.

Concerning initially the 112 rejection, by this Preliminary Amendment, the recitation in Claim 21 relative to the two sets of four fingers and the rectangular tray being formed of a single unitary member has been deleted. The resilient fingers are each now defined as being formed "as a single unitary member". Claim 18 has been appropriately amended to define each of the four fingers being made of a single unitary member, as well.

In addition, Claims 18 and 21 have been further amended to define the V-shaped fingers as each defining an obtuse angle therebetween, support for which can be seen in Fig. 1. This obtuse angle allows the fingers to be depressed more easily by the cup being inserted into the holder. As will be discussed in greater detail hereinafter, it is respectfully submitted that the prior art neither discloses nor suggests this novel combination of features.

At the outset, Applicant wishes to bring to the Examiner's attention a recent article in Newsday dated May 31, 2004, in which there was reference to the fact that it was difficult to "try jamming one of those square bottles into your car's

cup holder". This merits attention since it goes to the issue of the present invention that current cup holders are not designed to hold both round and square containers. It is respectfully submitted that it is only through hindsight reasoning that the prior art can be constructed in such a fashion as to duplicate Applicant's invention. In any event, the prior art relied upon by the Examiner does not disclose or suggest the invention as now claimed.

In particular, as noted above, the claims now define the use of V-shaped resilient fingers made of one piece which define an obtuse included angle. On the other hand, the German reference discloses fingerse having an included acute angle. The obtuse angle and the provision of V-shaped fingers in this form allow for a more gradual displacement thereof when the cup is inserted. The use of both the integrally formed resilient fingers, each having a V-shaped profile with an obtuse included angle is neither disclosed nor suggested by the references relied upon by the Examiner either applied alone or in combination.

Finally, Applicant hereby requests a three-month extension of time in which to respond to the outstanding Office Action. Credit Card payment form PTO-2038 in the amount of \$475.00 is enclosed to cover the official filing fee. Any fee deficiency or overpayment may be charged or credited to applicant's Deposit Account No. 07-0130.

Accordingly, reconsideration and withdrawal of the rejection and allowance of the claims at an early date is earnestly solicited.

Respectfully submitted,

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